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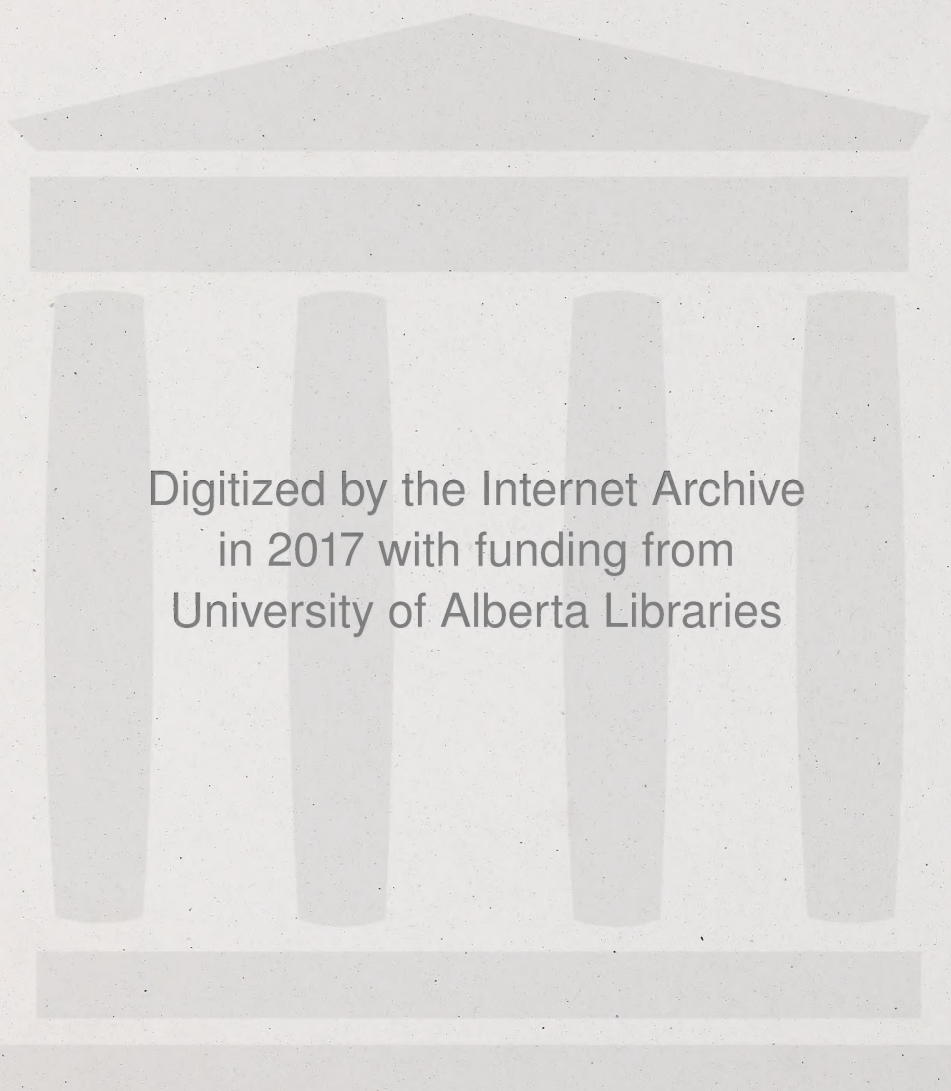
JAN 30 1998



OFFICE OF THE
INFORMATION AND PRIVACY COMMISSIONER

ALBERTA

ANNUAL REPORT 1996 - 97



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December 8, 1997

Honourable Ken Kowalski
Speaker of the Legislative Assembly
325 Legislature Building
10800 - 97 Avenue
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

I am pleased to submit to you the Annual Report of the Office of the Information and Privacy Commissioner, covering the period from April 1, 1996 to March 31, 1997.

This report is submitted under section 61(1) of the Freedom of Information and Protection of Privacy Act, Chapter F-18.5 of the 1994 Statutes of Alberta.

Yours truly,

Robert C. Clark
Information and Privacy Commissioner

Table of Contents

Commissioner's Message.....	1
<hr/>	
Accomplishments	
Interpretation of Legislation	3
Education and Public Relations	3
Working Relations and Cooperation	4
Research.....	4
<hr/>	
Office of the Information and Privacy Commissioner	
Background	5
Mandate	5
IPC Staff.....	6
IPC Timeline:	
1997 Objectives.....	6
1998 Objectives.....	7
<hr/>	
The Process: Request for Review and Inquiry	8
<hr/>	
The First Full Year: A Retrospective	
Cases Opened	9
Cases Closed.....	10
Public Bodies' Information.....	11
Orders Issued	12
<hr/>	
Summaries: Selected Reviews, Complaints, Investigations	13
Summaries: Inquiries.....	16
Summaries: Advice and Recommendations	19
<hr/>	
Budget.....	21
<hr/>	

Protection of Privacy

"If there is technological advance without social advance, there is, almost automatically, an increase in human misery."

Michael Harrington
1962

The prophetic words of American social scientist and author Michael Harrington are perhaps more relevant today than at any other time in our past. With advances in technology on all fronts proceeding at an ever increasing rate, many people, including myself, are continuously asking the question "*How will this new technology affect the individual?*" This is a question that is increasingly relevant with regards to personal information and privacy. How we answer this question, or even whether we choose to answer it, will tell us a lot about the future of our personal privacy.

Since the Office of the Information and Privacy Commissioner (IPC) in Alberta was officially opened in on October 1, 1995, continuous advances in information technology have initiated sweeping changes in communication, commerce, health care, and policing, to mention just a few. Advances such as electronic cash, data mining, smart cards, biometrics, and DNA data banks promise greater efficiency, productivity, and access to goods and services; however, these same advances hold the potential to seriously erode individual privacy. One of the major tasks of the IPC has been to keep abreast of these new developments, and recognize emerging privacy issues. On the national level, issues such as a national identification card, and common client identifier, would have a significant impact upon the privacy of Albertans. The challenge for our office, and for our legislators, will be to monitor such developments and ensure that we find the right balance between efficiency and privacy.

Government has been quick to adopt a number of these advances and, in its first full year of operation, IPC has reviewed a number of government policy initiatives, typically by way of obtaining privacy impact assessments of the initiatives. By asking the proponent to review their own initiative from a privacy perspective, it has been possible to temper technological efficiency with respect for individual privacy. Equally important, at the individual level, IPC has continued to investigate complaints by Albertans that their personal information has been handled improperly.

IPC also launched its first privacy compliance audit of a public body in 1997. The objective of privacy audits is to assure Albertans that their personal information is being handled in accordance with the Act, and to offer constructive advice and comment to public bodies about the privacy implications of various proposals, practices, and systems.

Another fundamental and ongoing objective of the IPC in the coming year will be education and communication. As advocates of personal privacy, it is important that we function as a source of information about access and privacy issues. I will personally press the need for education and be part of that process by taking on public speaking engagements. Education will help members of the public to become aware of privacy issues, and to ultimately become their own privacy watchdogs.

Access to Information

"We are at the dawn of an Age of Networked Intelligence - an age that is giving birth to a new economy, new politics, and a new society."

*Don Tapscott
1996*

We are in the midst of the information age. As author Don Tapscott has observed, information has become the fuel of modern society. Today many sectors of the world economy depend on timely, concise, and accurate information. Gaining access to information has become a central issue for business, special interest groups, organizations, and citizens in general. Governments the world over are starting to look at the ways in which they manage information. Alberta, by enacting *Freedom of Information and Protection of Privacy Act* (FOIP), based on principles outlined by the Organization for Economic Co-operation and Development (OECD), and adopted by the European Union, has recognized and embraced the new spirit of open and accountable government. The key for the future is to continue to balance the public's right to access information, while at the same time protecting the privacy rights of the individual.

As commissioner I will continue to promote and urge the provincial government to actively disseminate and routinely disclose information. My belief is that open and accountable government requires that information be made available without the need for a request or a inquiry. This proactive and cost effective approach will benefit both the public bodies and the citizens of Alberta

As the IPC case load continues to rise, and as more of my decisions are issued, hopefully public bodies and the general public will get a better idea of how the Commissioner interprets the Act. This should enable the public bodies to refuse access only where it is clearly appropriate to do so. The work of the IPC to date will also hopefully serve as guidance to municipalities, academic institutions, schools and hospitals as they come under the Act in the upcoming year.

While at times there have been disagreements between this office and both public bodies and applicants, it is fair to congratulate the majority of participants for their spirit of co-operation in dealing with this new legislation. The public bodies generally have tried to ensure that the protection of personal information balances access wherever possible.

I would like to acknowledge the superb efforts of my staff and thank them for their hard work and their ability to face challenges with enthusiasm and innovation.

Frank Work, Director and General Counsel, again deserves special recognition for guiding this office from its inception to its present dynamic state.

We at the IPC look forward to the continued co-operation of our colleagues in the provincial government to promote open and accountable government and to champion privacy on behalf of the people of Alberta.

Accomplishments

Interpretation of Legislation

Some of the significant Orders issued that interpret the Act:

- Established a “harm” test for determining whether disclosure of information is harmful - Order 96-003.
- Developed the test for disclosure harmful to third party business interests - Order 96-013.
- Clarified the test for disclosure harmful to the economic interest of a public body - Order 96-016.
- Ruled on the applicability of solicitor-client privilege under the Act - Order 96-017.
- Set out the criteria for a public body’s exercise of discretion under the Act - Order 96-017.
- Clarified the interpretation of “law enforcement information” and “confidential source of law enforcement information” - Order 96-019

Education and Public Relations

Education is critical to helping Albertans understand their access and privacy rights.

Some of the educational initiatives undertaken by the office:

- Answered over 5000 telephone enquiries from the public.
- Addressed the following public bodies and organizations:
 - Alberta Alcohol and Drug Abuse Commission
 - Alberta School Board Association
 - Alberta Civil Liberties Research Centre
 - Alberta Registrar’s Workshop
 - American Society for Industrial Security
 - Canadian Access and Privacy Meeting
 - Canadian Association of Journalists
 - CJIL Television
 - Edmonton Rotary Club
 - Forum for Young Albertans
 - Health Communicators Network
 - Radio-Television News Directors Association Annual Conference
 - Red Deer Rotary Club
 - Strathcona Rotary Club
 - 45th Annual Queen’s Printer Conference
- Held meetings with:
 - Alberta Association of Municipalities
 - Alberta Council on Aging
 - Alberta Family and Social Services
 - Alberta Pharmaceutical Association
 - Association of Districts and Counties

Banker's Association of Canada
Edmonton Police Service
Calgary Police Service
Petroleum Services Association of Canada
RCMP K Division
Workers' Compensation Board

- Participated in consultations:

National Public Consultation on Privacy Rights and New Technologies organized by the Parliamentary Committee on Human Rights and the Status of Disabled Persons.

Symposium on Freedom of Information Privacy and the Documentary Record in Alberta.

18th International Privacy and Data Protection conference

Vision for Privacy in the 21st Century conference

Information and Privacy Conference '96

Working Relations and Co-operation

- Held an open house for FOIP Co-ordinators and regularly attended FOIP Co-ordinator meetings.
- Prepared a series of *Practice Notes* to provide individuals and public bodies with assistance and advice in using the FOIP Act.
- Participated in Joint Application Design (JAD) sessions for *Alberta Government Integrated Management Information System* (IMAGIS).
- Liaised with the Information and Privacy Offices of Ontario, British Columbia, Australia, New Zealand, the United Kingdom and the Netherlands.

Research

- Researched privacy codes throughout the world.
- Continued to expand IPC library by searching for and acquiring international reports, books, articles, legislation on the issues of protection of privacy and access to information.
- Conducted research and provided comment on proposed national identification number/card system.
- Conducted research and made recommendations with regard to treatment of electronic files on surplus computer equipment, and the disposal of this equipment.

Background

The Alberta *Freedom of Information and Protection of Privacy Act* (the Act) received Royal Assent on June 1, 1994, although most of the Act did not come into force until October 1, 1995. Robert C. Clark was appointed as the province's first Information and Privacy Commissioner on June 1, 1995. Mr. Clark was re-appointed to this position on June 2, 1997, for a five year term.

The Director and General Counsel for the Office of the Information and Privacy Commissioner (IPC) was hired on June 15, 1995, and IPC was staffed by September 1995. The decision was made early on to employ only a core group of resourceful and skilled people to respond to both policy initiatives and individual requests and complaints. Where specialized expertise was needed, it would be contracted for.

IPC presently shares office space and some staff functions with the Office of the Ethics Commissioner. This has resulted in cost savings to both offices. However, it is emphasized that IPC and Ethics functions are otherwise kept strictly separate, and confidentiality in Ethics matters is strictly and completely preserved.

In 1996 IPC hired two more Portfolio Officers, retained one more legal counsel on contract, hired a researcher/systems analyst, and an office assistant. The staffing strategy of IPC has been to hire individuals with adaptable skills and extensive experience in areas that are particularly relevant to access and privacy issues. In so doing the organization has created a broad base of knowledge which can be drawn upon in order to enforce the Act and assist Albertans with any concerns they have in this area.

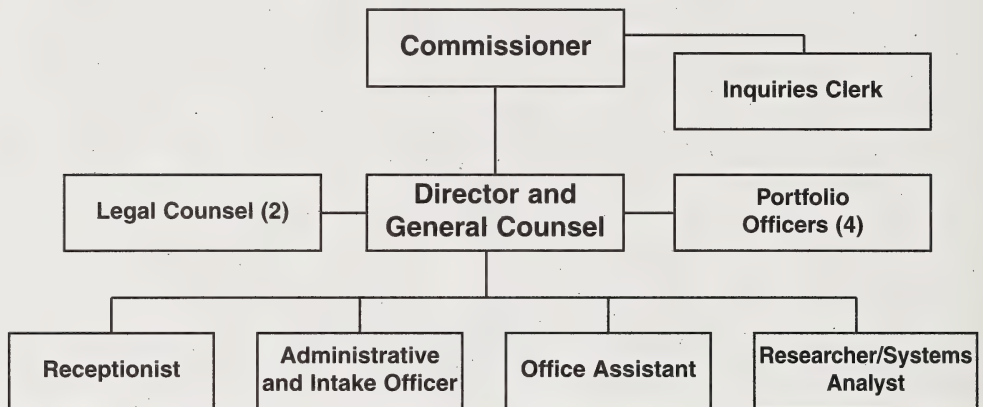
Mandate

Under the Act, the Commissioner is responsible for performing a broad range of functions. Section 51 is not exhaustive, but sets out a number of these responsibilities:

- conduct investigations to ensure compliance with a provision of the Act or compliance with rules relating to the destruction of records set out in:
 - (a) any other enactment of Alberta, or
 - (b) a by-law or other legal instrument by which a local public body acts
- make an order described in Section 68(3), whether or not a review is requested
- inform the public about the Act
- receive comments from the public concerning the administration of the Act
- comment on the implications for freedom of information and protection of personal privacy resulting from proposed legislative schemes or programs of public bodies
- comment on the implications for protection of personal privacy resulting from using or disclosing personal information for record linkage

- authorize the collection of personal information from sources, other than from the individual about whom the information relates
- bring to the attention of the head of a public body any failure to meet the prescribed standards for fulfilling the duty to assist applicants
- give advice and recommendations of general application to the head of a public body on matters respecting the rights or obligations of a head under the Act

IPC Staff



IPC Timeline

1997 Objectives

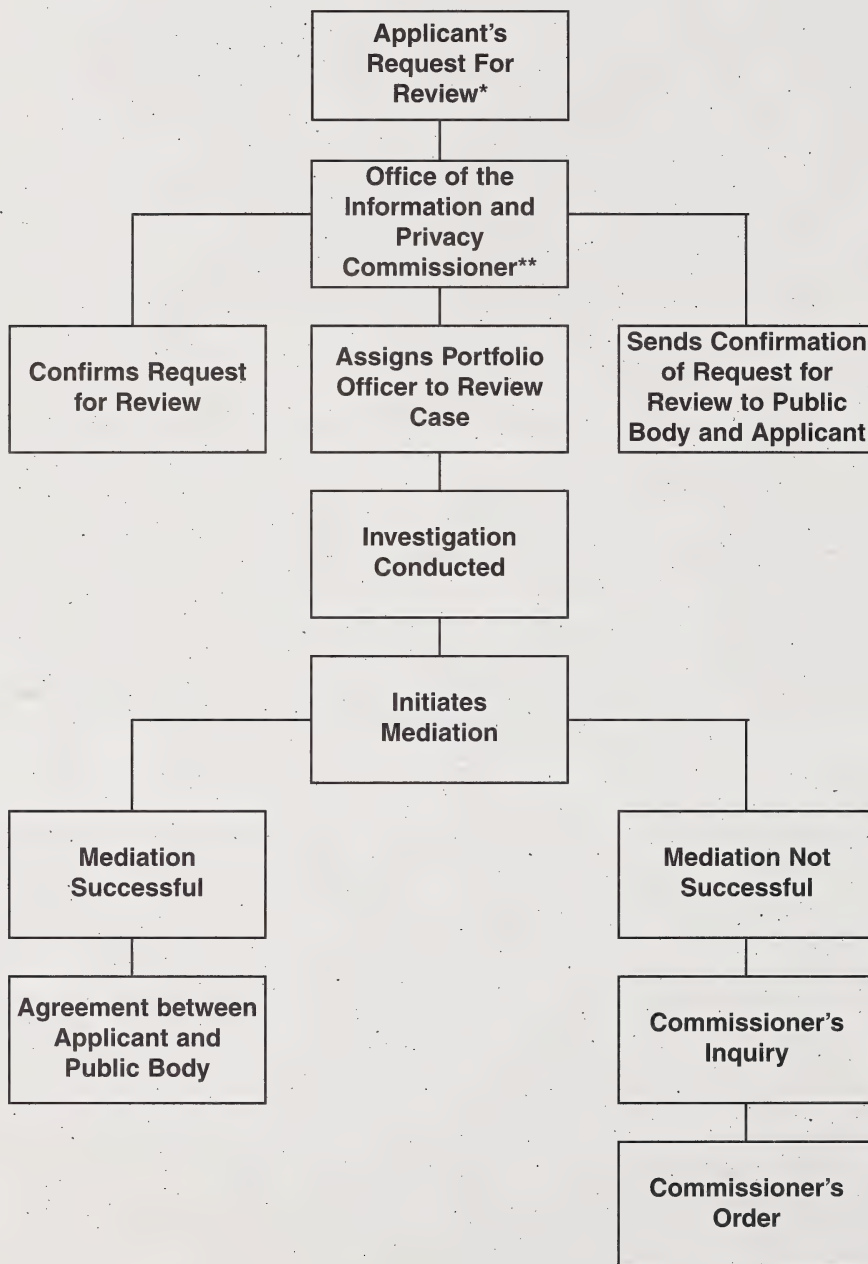
- prepare for local public bodies (the “MASH” sector: municipalities, academic institutions, schools and hospitals) coming under the Act.
- continue to deal with requests for review in a timely way.
- continue to monitor access and privacy implications of legislative schemes and programs.
- review data sharing agreements between various provincial departments.
- participate in the “paramountcy” review of the Act required by section 5.
- complete and report on its first privacy compliance audit.
- IPC has been pleased to assist the new Information and Privacy Commissioners from the Yukon and North West Territories in establishing their offices.

- IPC funded and supported the preparation of an annotated version of the Act.
- IPC will need to have a solid core of experienced Portfolio Officers to:
 - * deal with requests for review of decisions of local public bodies
 - * assist local public bodies in complying with the Act
- IPC will also expand its communications strategy to include local public bodies.
- Furthermore, IPC will continue to require resources to comment on legislative schemes and the “paramountcy” of the Act over other legislation.

1998 Objectives

- use privacy impact assessments to monitor and comment on the increasing number of information related schemes and initiatives by government.
- speak to Albertans about privacy issues and their implications for the individual.
- provide effective and timely reviews of the decisions of public bodies, which will then include universities and colleges, respecting access requests and privacy complaints.
- participate extensively in the mandated three year review of the Act.
- keep abreast of the continuing advances in information technology.

The Process: Request for Review and Inquiry



* Applicant: a person who makes a request for information held by a public body or a person who is affected by a public body's release of that information.

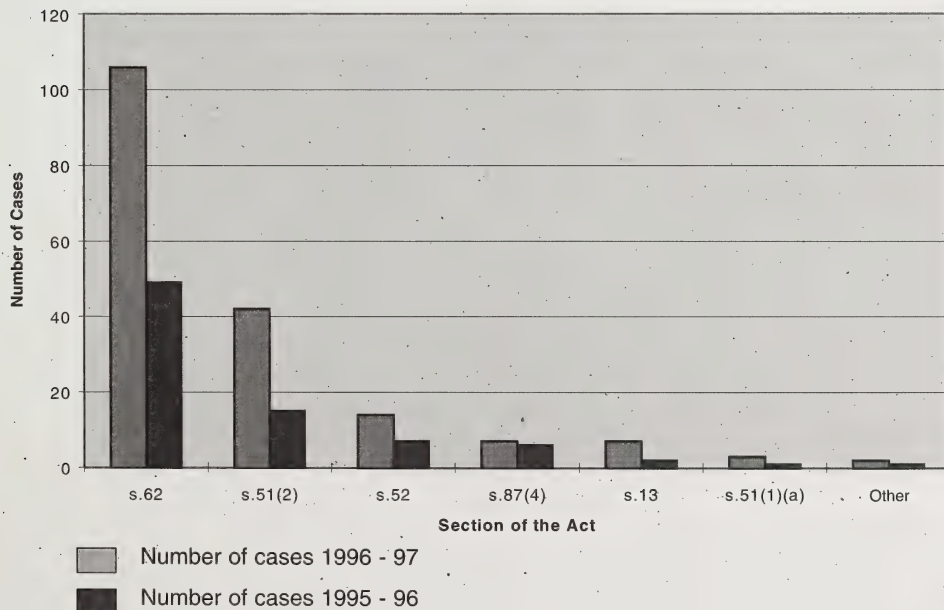
** The Commissioner is not involved with the Request for Review until the Inquiry stage.

The First Full Year: A Retrospective

Cases Opened (April 1, 1996 to March 31, 1997)

Type of Case	Relevant Section of the Act	Number of Cases 1995-96	Number of Cases 1996-97
Requests for Review	s. 62	49	106
Complaints	s. 51(2)	15	42
Requests for Advice and Recommendations	s. 52	7	14
Requests for Fee Waiver	s. 87(4)	6	7
Requests to Extend Time	s. 13	2	7
Investigations	s. 51(1)(a)	1	3
Other	—	1	2
Total		81	181

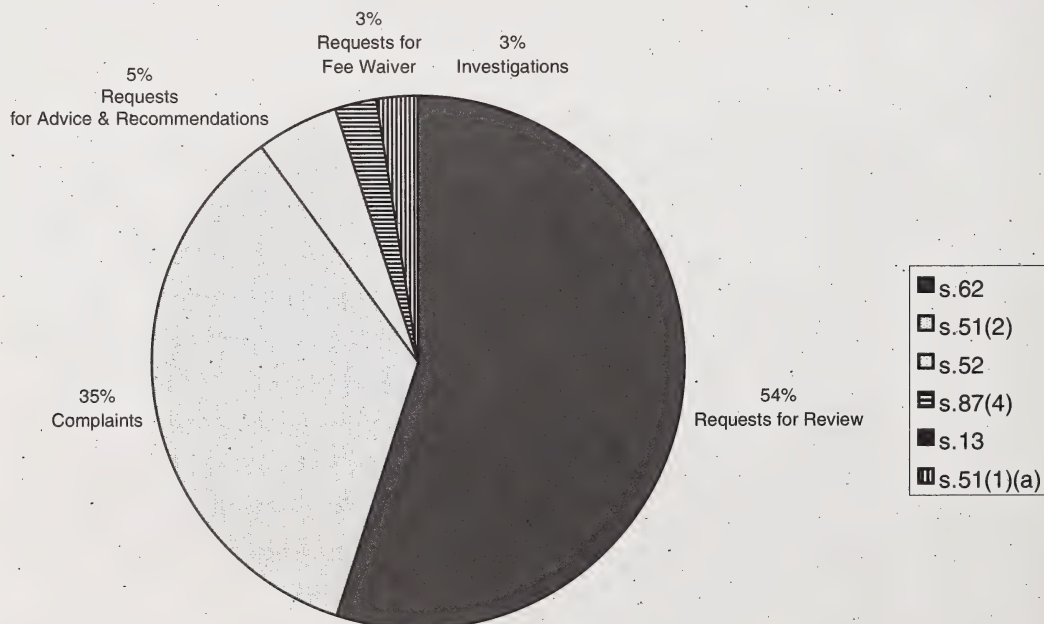
**Cases Opened
(by Case Type)**



Cases Closed
(April 1, 1996 to March 31, 1997)

Type of Case	Section	Closing Method					Total 1996 - 97
		Investigation Complete	Inquiry Held Order Issued	Withdrawn by Complainant	Negotiated	Other	
Requests for Review	s.62	44	16	13	12	10	95
Complaints	s.51(2)	28	1	2	—	4	35
Requests for Advice and Recommendations	s.52	4	—	1	—	10	15
Requests for Fee Waiver	s.87(4)	2	—	—	1	1	4
Requests to Extend Time	s.13	—	—	—	—	9	9
Investigations	s.51(1)(a)	2	—	—	—	1	3
Total		80	17	16	13	35	161

Investigation Complete
(April 1, 1996 to March 31, 1997)



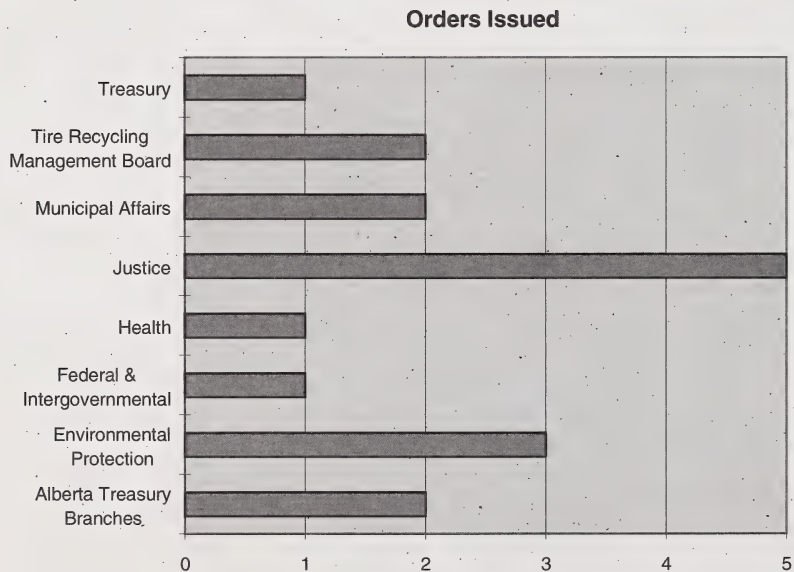
Public Bodies' Information

(April 1, 1996 to March 31, 1997)

Public Body	Requests for review	Complaints	Advice & Recommendations	Other	Total
Advanced Education & Career Development	5	2	1		8
Agricultural Financial Services Corporation			1		1
Agricultural Food & Rural Development	1		1		2
Alberta Gaming & Liquor Commission	1				1
Alberta Treasury Branches		1			1
Community Development	3	3	1	1	8
Credit Union Deposit Guarantee Corporation	2	2			4
Economic Development & Tourism	1	1		2	4
Education	4				4
Environmental Protection	19	3	1	4	27
Family & Social Services	28	13	4	1	46
Health	1	2	1	1	5
Justice	18	4		3	25
Labour	3		1	2	6
Municipal Affairs	5				5
Office of the Chief Electoral Officer		1			1
Personnel Administration Office	1	1			2
Public Works Supply & Services	3			2	5
Special Waste Management Corporation	1				1
Tire Recycling Management Board	3				3
Transportation & Utilities	4				4
Treasury	1	3	1	2	7
Worker's Compensation Board	2	6	2		10
Total	106	42	14	18	180

Orders Issued
(April 1, 1996 to March 31, 1997)

Public Body	Orders Issued
Alberta Treasury Branches	2
Environmental Protection	3
Federal & Intergovernmental Affairs	1
Health	1
Justice	5
Municipal Affairs	2
Tire Recycling Management Board	2
Treasury	1
Total	17



Sale of Surplus Government Computers

IPC conducted an investigation into the issue of computers from some public bodies being sold as surplus while still containing personal information. The report documents an intensive investigation into a complex set of facts. The investigation found that:

- There is no consistent procedure among public bodies with respect to the clearing of computers prior to being surplus.
- Breaches of privacy occurred: personal information was seen, copied and printed, and may have been hidden away.
- Efforts by the public bodies involved to contain and recover the exposed information were ineffective.

The Commissioner made 17 recommendations respecting the specific occurrences and the procedures which should be implemented to prevent this from happening again.

Among the recommendations are the following:

- Clear procedures, complete with sign-off by responsible individuals, be implemented to insure that computers used by public bodies are cleared of information prior to being sold as surplus.
- Acceptable methods of actually clearing hard drives be established.
- Alberta Public Works, Supply and Services to take a lead role in communicating to organizations and professionals who handle personal information (clinics, doctors, lawyers, etc.) the need for and the means of clearing sensitive information from computers prior to disposal.

Sharing of Information Between Public Bodies

IPC also conducted an investigation into a complaint from a private citizen about the sharing of personal information between two public bodies.

The complaint, pursuant to the *Freedom of Information and Protection of Privacy Act*, focused on the manner in which Alberta Health provides personal medical information to the Workers' Compensation Board (WCB). The concerns were that:

- Alberta Health routinely discloses personal information to the WCB without the knowledge or consent of the individual involved.
- Alberta Health routinely provides the WCB with entire health records, including all diagnostic codes, and not just information relevant to the individual's specific injury.

These concerns were brought to the attention of the two public bodies who in turn investigated the procedures that they were following. It was determined that the WCB is authorized by statute to collect personal information about an individual to determine or verify their eligibility to receive benefits. In turn, Alberta Health is authorized by statute to disclose information to the WCB.

It was found that the information shared was not medical information but service event codes used by the WCB to access necessary medical information from health care providers. In addition, WCB requests of Alberta Health were not specific enough in scope, resulting in the release of more information than was necessary to adjudicate a claim.

Based on these observations, the Office of the Information and Privacy Commissioner, WCB and Alberta Health agreed that procedural changes were possible to limit the disclosure of personal information to the WCB [in accordance with the *Freedom of Information and Protection of Privacy Act* and existing legislation] while still meeting basic WCB operating requirements.

The Commissioner commented “I am very pleased with the responsiveness of both Alberta Health and the Workers’ Compensation Board in resolving this issue. I believe that the changes in the procedures for requesting and disclosing personal information reflect the intent and spirit of the *Freedom of Information and Protection of Privacy Act*.”

Alberta Seniors Benefit Program

The Commissioner publicly released a report arising from his Office’s investigation of the general complaint by the Alberta Council on Aging about the information practices of the Alberta Seniors Benefit program (“ASB”).

In that report, the Commissioner concluded his privacy investigation by providing 24 recommendations. These recommendations were the result of a process begun in 1996 with specific complaints being received from individual seniors. These complaints were merged into a wide-reaching general complaint brought to the Commissioner under the sponsorship of the Alberta Council on Aging in August 1996.

A task force, made up of Council and Government representatives, met with the Commissioner’s Investigator to resolve 21 issues, including a new formula outlining what tax field information about ASB applicants the Alberta Government will draw in future from the Revenue Canada databases. The Commissioner described the joint task force as a “model for future privacy assurance investigations”, congratulating the Council and the Department for their efforts at solving some long-standing problems.

The Commissioner personally inspected the computer facilities and file systems used to collect and store the tax information to assure that private financial information is properly secured and not disclosed to anyone outside the ASB program staff.

The Commissioner's 24 recommendations support the Council's call for tighter information collection, reducing the number of tax information fields collected from several dozen to just 11 for most ASB recipients. If accepted by the Government, the recommendations will lead to a revised federal/provincial data agreement, new application forms, and publicity to seniors describing the data collection necessary for ASB program operations.

In conducting this investigation, the Commissioner set a new standard for how government administrators obtain personal information from outside sources. "As Commissioner, I place high value on how public bodies working with personal information make every effort to include the people the information is about in any policy work around information handling practices."

Law Enforcement Records (Order 96-003)

This Order dealt with records held by the Law Enforcement Review Board. While upholding the decision of the Board to refuse access under the *Freedom of Information and Protection of Privacy Act* to certain portions of the records requested by the Applicant, the Commissioner ordered portions of other records released, subject to further severing.

The Commissioner also made some general observations with respect to exemptions applied by public bodies to law enforcement records.

When a public body claims disclosure may be harmful to a matter, in this case a law enforcement matter, the Commissioner will require that the public body provide supporting information to demonstrate the harm (including the nature and extent) that the public body believes will result if the records are released. The public body must prove a connection between the disclosure and the anticipated harm. The Act requires disclosure of records generally, unless a specific exemption from disclosure, such as harm to a law enforcement matter, applies to a specific record.

Interpretation of Law and Law Enforcement (Order 96-006)

This Order dealt with a request for access to information made under the *Freedom of Information and Protection of Privacy Act* to the Department of Justice.

The Applicant had requested information gathered by an internal investigation into an attempted escape from a correctional institution. Alberta Justice made some of the information available but declined to give access to other information on the basis that: 1) personal information of third parties was involved (section 16); 2) the information would harm a law enforcement matter (section 19); and, 3) the investigation constituted advice from officials (section 23).

The Commissioner found that Alberta Justice had correctly applied section 16 to withhold the personal information, including names, of third parties, but said that information could be severed from the records. He found that section 19 (law enforcement) did not apply because the investigation was not into the escape itself but into the actions of Corrections Officers relative to the attempt. As such, the investigation involved an internal disciplinary investigation rather than an investigation into a possible breach of the law. The Commissioner also found that section 23 (advice from officials) did not apply because the evidence given to the investigator was not in the nature of advice or recommendations about the attempted escape but the recollections of Corrections Officers as to the events surrounding the attempt and their performance of their duties.

In the end, the Commissioner ordered the information released to the Applicant, subject to the severing of the personal information of all third parties. The Commissioner's decision was upheld on judicial review.

Overriding Privacy Protection (Order 96-007)

This order dealt with a complaint that the Department of Justice had collected, used or disclosed personal information contrary to Part 2 of the *Freedom of Information and Protection of Privacy Act*.

The Commissioner held that he had no jurisdiction to deal with 3 of the 4 complaints since the incidents had occurred prior to the coming into force of the *Freedom of Information and Protection of Privacy Act*. Despite this jurisdictional issue, the Commissioner said that the Act does allow law enforcement agencies to disclose personal information either amongst themselves or to assist in law enforcement proceedings; section 38(1)(o) and (p). With respect to the complaint which arose after the coming into force of the Act, namely that Alberta Justice had advised law enforcement agencies of the date of the Complainant's release from prison, the Commissioner found that the disclosure was made between law enforcement agencies and was therefore permitted.

The Commissioner noted that, under the Act, persons who, by their actions are perceived as posing a threat to someone may have their privacy protection overridden.

The Commissioner also noted that section 31 of the Act requires public bodies to warn the public or groups of the public of potential risks even if to do so would run counter to another section of the Act. The Commissioner referred to the "Protocol regarding the release of information in respect of individuals who are believed to present a risk of significant harm to the health or safety of any person, group of persons or the general public" which was signed by law enforcement bodies in Alberta in April of 1996. Public bodies involved in law enforcement should be aware of this Protocol. In cases where section 31 and the Protocol apply, privacy considerations have to give way to considerations of public safety.

Solicitor-Client Privilege (Order 96-017):

This Order dealt with a request for access to information made to Alberta Environmental Protection under the *Freedom of Information and Protection of Privacy Act*.

The Applicant sought access to documents relating to an amendment of a specific waste control regulation made under the *Environmental Protection and Enhancement Act*. The public body released some of the relevant records but withheld others on the basis the information should not be disclosed because the information fell within one of 3 exceptions to disclosure under the Act. The exceptions claimed by the public body were: solicitor-client privilege (section 26(1)(a)), information relating to the provision of legal services (section 26(1)(b)) and information which would reveal the contents of draft regulations (section 23(1)(e)).

To determine whether solicitor-client privilege applied to the information contained in each of the documents, the Commissioner applied the established legal criteria for solicitor-client privilege: (i) each document must be a communication between a solicitor and client; (ii) the communication must involve the seeking or giving of legal advice; and (iii) the communication is intended to be confidential by the parties. With the exception of four documents, the Commissioner held that solicitor-client privilege applied to the information in all the documents for which the public body claimed an exception under section 26(1)(a). The legal services exception to disclosure applied to two of the remaining four documents, and personal information was contained in two others, excepting them from disclosure (section 16(2)(g)).

The Commissioner also held that the public body was entitled to withhold one other document as it related to draft regulations (section 23(1)(e)).

Having determined that the public body was entitled to refuse to disclose the severed information, the Commissioner then considered whether the public body exercised its discretion properly under section 26(1)(a), section 26(1)(b) (privileged information) and section 23(1)(e) (advice from officials). Those sections are discretionary (“may”) exceptions. In applying those exceptions to disclosure, the head of a public body must consider whether the information should be disclosed, even though it does not have to be disclosed.

The Commissioner was of the view that where a public body has a choice (i.e. “may” exceptions), it must consider the objects and purposes of the Act when exercising its choice to refuse disclosure of information. In this case, the Commissioner was not satisfied that the public body considered the objects and purposes of the Act when exercising its discretion to refuse disclosure. Since the Commissioner does not have the power to substitute his own decision for that of the public body where the public body has correctly applied the exception, the Commissioner returned the decision to the public body for reconsideration under section 68(2)(b) of the Act.

CRTC - Directory Subscriber Listings

The Commissioner publicly released his submission to the Canadian Radio-television and Telecommunications Commission (CRTC) on the issue relating to directory database information and unlisted telephone numbers.

In Telecom Decision CRTC 95-3, the CRTC ordered the telephone companies to make non-confidential residential and business listing information available in machine-readable form, unbundled on an exchange-level basis. Before making this information available, telephone companies were required to implement a number of privacy safeguards. Specifically, telephone companies were to establish a 1-800 toll-free number to which customers could direct inquiries and through which they could request that their information be removed (de-listed), at no charge, from listing information that is sold or rented. Through billing inserts, customers were to be informed of the provision of non-confidential listing information to third parties and the mechanism available to have their names and related information excluded.

In March 1995, White Directory filed an application to have the subscriber listing information provided to independent telephone directory publishers excluded from the de-listing mechanism. It was argued that the de-listing mechanism would put independent telephone directory publishers at a competitive disadvantage since the information that would be available for inclusion in their directories would be less complete than that which is available for the directories of the telephone service providers.

In Telecom Decision CRTC 95-14, the CRTC decided not to waive the application of the de-listing mechanism for independent telephone directory publishers as requested by White Directory. However, in response to a petition from a number of directory publishers, the Governor in Council (Order-in-Council P.C. 19/96-1001) varied Telecom Decision CRTC 95-14. The application of the de-listing mechanism for subscriber listings that are made available to independent telephone directory publishers was waived on the condition that directory subscriber listings be used solely for the purpose of publishing telephone directories and not resold, rented or otherwise disposed of to third parties. The rationale provided was that fair and sustainable competition in the directory publishing market is in the public interest.

The CRTC requested comment on two issues: first, directory subscriber listings and the appropriate level of protection which should be accorded to them, and in particular, subscriber listings of other service providers; and, second, unlisted numbers services. The issues have arisen as a result of "private" directory companies, that is companies which do not operation telephone services but which publish directories, asking the CRTC to require telephone companies to provide them with "the same non-confidential residential listing information" that the telephone companies provide to their affiliates for the purpose of publishing telephone directories. The private directory companies would accept a condition that they not provide the information to third parties and that they only receive "non-confidential" information.

The Commissioner's position is that telephone subscribers provide their name, address and phone number to a telephone directory consistent with and as part of their use of the telephone. That information should not be provided to anyone who might use it for an inconsistent purpose. Therefore, the listing information should not be given to companies which do not use it in connection with the provision of telephone services. However, if private directory companies are to get this information, the Commissioner said that individuals have the right to opt out or be de-listed from any such database and machinery for this should be made available. This would mean that the de-listing mechanism should be retained so that people would be notified of each directory their information is to appear in and given the opportunity to ask not to be listed. Finally, the Commissioner opposed the concept that people who wish to remain anonymous by not listing their telephone numbers should have to pay for that right.

Permanent Election Lists

The Commissioner publicly issued a statement on the matter of permanent voters lists. The statement was made in light of the discussion of the collection of phone numbers for the voter's list in Alberta.

There is a movement across Canada to institute permanent voter's lists. These permanent lists avoid the need to do regular enumerations by developing a list and keeping it current by using information from other databases. There is a cost savings and a convenience there. Bill C-63, would give the Chief Electoral Officer of Canada authority to create a permanent list, and enter into agreements with provinces to share federal lists with the provinces for provincial and local elections. The Bill would also allow the Chief Electoral Officer of Canada to enter into agreements with provincial agencies regarding the sharing of certain provincial information with him. Bill C-63 does not allow federal databases to be used to maintain the lists unless there is specific individual consent to use the information in the federal database.

The Commissioner said that while it is preferable, from a privacy point of view to limit the collection of personal information, where a decision is made to collect personal information, this should be done with the knowledge and consent of the individuals involved. In Alberta, the Chief Electoral Officer is doing a good job of ensuring that individual consent is obtained before the phone number is collected.

Similarly, the Commissioner said, where provincial information is going to be shared with the Chief Electoral Officer of Canada, there should be knowledge and consent on the part of the individuals to whom the information belongs.

Budget

Item	1996 - 97	1997 - 98
	Actual Expenditure	Estimated Expenditure
Salaries, Wages and Employee Benefits	\$500,639	\$614,371
Supplies and Services	\$190,238	\$336,058
Total Expenditures	\$690,877	\$950,429

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